


No. 2021-6879

**Official Order
of the
Texas Commissioner of Insurance**

Date: 06/23/2021

Subject Considered:

Quaint Kempf


Royse City, Texas 75189-4728

Consent Order
TDI Enforcement File No. 17866

General remarks and official action taken:

This is a consent order with Quaint Kempf (Kempf). The department has reviewed Kempf's application for an adjuster all lines license and his rehabilitative evidence and determined that the license should be granted subject to a two-year probated suspension and reporting as detailed in this order.

Waiver

Kempf acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Kempf waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

License Application

1. On September 11, 2018, Kempf applied for an adjuster all lines license to be issued by the department.

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2. On October 25, 2018, the department proposed to deny Kempf's application based on his criminal history. Kempf timely submitted a written request for a hearing, but a hearing is unnecessary with the resolution of the case through this consent order.

Criminal History

3. On July 9, 2001, Kempf was convicted of the misdemeanor offense of assault causing bodily injury, in cause no. CR-0100584 in the County Court at Law of Hunt County, Texas. The court sentenced Kempf to 45 days in jail, suspended for a period of six months of probation, and ordered him to pay a fine.
4. On December 7, 2001, Kempf received deferred adjudication for the felony offense of Burglary of a Habitation, entering a habitation without consent and attempting to commit an assault, in cause no. 3543 in the Eighth Judicial District Court of Rains County, Texas. The court ordered Kempf to serve four years probation, pay a fine and court costs, and complete community service.
5. On December 12, 2001, Kempf received deferred adjudication for the misdemeanor offense of failure to identify in cause no. 2001-00776-B, in the County Criminal Court of Denton County, Texas. The court placed Kempf on probation for 12 months and ordered him to pay fines.
6. On September 19, 2002, Kempf was convicted of the misdemeanor offense of assault causing bodily injury in case no. CR0200767, in the County Court at Law of Hunt County, Texas. The court sentenced Kempf to two days jail and ordered him to pay a fine.
7. On December 9, 2004, Kempf was convicted of the misdemeanor offense of assault in case no. MA0425962A, in the County Criminal Court of Dallas County, Texas. The court sentenced Kempf to 24 months probation and ordered him to pay court costs and fines. On July 19, 2006, Kempf's probation was revoked, and he received 30 days confinement.
8. On October 24, 2005, Kempf was adjudicated guilty of the burglary offense in cause no. 3543 above for probation violations. Kempf was sentenced to 10 years confinement, suspended to 10 years probation, and he was ordered to pay a fine. Kempf was released early from probation on February 29, 2012.

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9. On July 18, 2006, Kempf was convicted of the misdemeanor offense of possession of controlled substance in cause no. MA-0556882-A, in the County Criminal Court in Dallas County, Texas. The court sentenced Kempf to 30 days confinement.
10. On November 21, 2014, Kempf received deferred adjudication for the misdemeanor offense of criminal mischief \$500-\$1,500 related to damage to a vehicle in cause no. 1376681, in County Criminal Court #10 in Tarrant County, Texas. The court placed Kempf on six months probation.

Evidence of Rehabilitation

11. Kempf cooperated extensively and timely with the department in its investigation of his criminal background. Kempf provided evidence of his rehabilitation to support his fitness for licensure.
12. In accordance with the requirements of TEX. OCC. CODE § 53.025, the department has developed guidelines relating to the matters which the department will consider in determining whether to grant, deny, suspend, or revoke any license or authorization under its jurisdiction, as described in 28 TEX. ADMIN. CODE §§ 1.502(e)-1.502(k).
13. Pursuant to 28 TEX. INS. CODE § 1.502(e)(4)(E), among the crimes the department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure are crimes with the essential elements of a burglary offense.
14. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the department may issue a license if the applicant has engaged in criminal activity described in 28 TEX. ADMIN. CODE §§ 1.502(d) and 1.502(e) if the commissioner determines that the serious nature of the criminal activity is outweighed by the rehabilitative factors described in 28 TEX. ADMIN. CODE § 1.502(h).
15. 28 TEX. ADMIN. CODE § 1.502(h) specifically tracks the rehabilitative factors listed in TEX. OCC. CODE §§ 53.022 and 53.023¹ that the department must consider in

¹ All citation to the Texas Occupations Code in this Commissioner's Order refers to the law in effect prior to H.B. 1342 (86th R.S.), effective September 1, 2019. Section 14 of H.B. 1342 states: "The changes in law made by this Act apply only to an application for a license submitted on or after the effective date of this Act. An application for a license submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose."

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determining whether those factors outweigh the serious nature of the applicant's criminal history.

16. TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1) describe the initial factors the department must consider in determining whether issuance of the license is appropriate:

FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION.

In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

- (1) the nature and seriousness of the crime;
 - (2) the relationship of the crime to the purposes for requiring a license to engage in the licensed occupation;
 - (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
 - (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.
17. Considering the factors outlined in TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Kempf's conviction for burglary of a habitation directly relates to the occupation of an adjuster because "the special nature of the relationship between licensees ... and the public with respect to insurance and related businesses regulated by the department requires that the public place trust in and reliance upon such persons due to the complex and varied nature of insurance and insurance-related products." 28 TEX. ADMIN. CODE §§ 1.502(a), and 1.502(e)(4)(F).
18. TEX. OCC. CODE § 53.023 and 28 TEX. ADMIN. CODE § 1.502(h)(2) describe additional factors the department must consider in determining whether issuance of the license is appropriate:

ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER:

- (a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:

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- (1) the extent and nature of the person's past criminal activity;
 - (2) the age of the person when the crime was committed;
 - (3) the amount of time that has elapsed since the person's last criminal activity;
 - (4) the conduct and work activity of the person before and after the criminal activity;
 - (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
 - (6) other evidence of the person's fitness, including letters of recommendation from:
 - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; and
 - (C) any other person in contact with the convicted person.
 - (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).
 - (c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:
 - (1) maintained a record of steady employment;
 - (2) supported the applicant's dependents;
 - (3) maintained a record of good conduct; and
 - (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.
19. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Kempf has convictions and deferred adjudications for assault and a deferred adjudication for criminal mischief, which he attributes to being young and making the wrong decision by choosing to engage in fights to solve conflicts. Kempf has accepted responsibility, expressed remorse for his conduct, and has learned that fighting is not the way to settle conflict.

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20. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Kempf has a burglary of a habitation conviction which he attributes to both his youth and a misplaced effort to defend a friend by entering a habitation to join in a fight involving his friend. Kempf has accepted responsibility for his actions, expressed remorse for his conduct, and has learned that fighting is not the way to settle conflict.
21. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Kempf has a deferred adjudication for failure to identify for which he takes responsibility. Kempf also has a conviction for possession of a controlled substance which he attributes to having his mother's pain pills in his car which he was using for his own injured ankle. Kempf has accepted responsibility for his conduct.
22. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Kempf's criminal activity occurred between 2000 and 2014 when he was primarily between the ages of 19-24, but with the last misdemeanor deferred adjudication at the age of 33.
23. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), it has been seven years since Kempf's last criminal activity occurred, which was a misdemeanor deferred adjudication and approximately 20 years since his only felony conviction directly related to the business of insurance.
24. In consideration of TEX. OCC. CODE §§ 53.023(a)(4)-(5) and 53.023(c)(1), and 28 TEX. ADMIN. CODE §§ 1.502(h)(2)(D) and 1.502(h)(2)(G)(i), Kempf has provided the department with evidence demonstrating his commitment to rehabilitation. Kempf has attended anger management classes and does motivational speaking at high schools for young adults. Kempf also provided the department with a detailed resume showing that he has been steadily employed and an explanation of his fiduciary duties in his employment. Kempf was an amateur and professional mixed martial arts (MMA) fighter for several years and he now owns two MMA gyms. Additionally, Kempf was a personal trainer, lock smith, and a hair dresser.
25. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received several letters of recommendation on behalf of Kempf from:

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- a. A former police sergeant and former marine, and current business partner, who has known Kempf for seven years and confirms knowledge of Kempf's criminal history. He stated that Kempf works for good causes, is a devoted husband and father, that Kempf recognizes the mistakes in his youth, and that he is no longer that person;
 - b. A former Department of Homeland Security agent who has known Kempf for seven years confirms knowledge of Kempf's criminal history and stated that Kempf's mistakes would not hinder his ability to excel as an insurance professional;
 - c. A friend of over 25 years, confirms knowledge of Kempf's criminal history and stated that Kempf is honest, dependable, and hardworking. The letter further stated that Kempf has overcome adversity and is a good friend, family man, and all-around great person;
 - d. Kempf's chiropractor and friend confirms knowledge of Kempf's criminal history and stated that Kempf has improved himself and moved past the immaturity of his younger years. The letter further stated that Kempf is organized, hardworking, honest, and trustworthy;
 - e. A friend who has known Kempf for over five years, stated that Kempf is hardworking, understanding, and generous. The letter further stated that he trusts Kempf completely; and
 - f. Kempf's attorney confirms knowledge of Kempf's criminal history and stated that Kempf is professional, ethical, and has overcome his past.
26. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Kempf is married and has children whom he supports.
27. In consideration of TEX. OCC. CODE § 53.023(c)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Kempf has maintained a record of good conduct after his last offense.
28. In consideration of TEX. OCC. CODE § 53.023(c)(4) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Kempf has provided the department with evidence showing he has paid all court costs, fines, and restitution in full.
29. The factors described in TEX. OCC. CODE §§ 53.022 and 53.023 and 28 TEX. ADMIN. CODE § 1.502(h) outweigh the serious nature of Kempf's criminal history.
30. Due to Kempf's criminal background, the department needs the opportunity to monitor his insurance activities to ensure he demonstrates the ability, capacity, and

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fitness required to perform and discharge the responsibilities of a licensed insurance agent.

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051–82.055, 4005.101, 4005.102, and 4101.051; TEX. GOV'T CODE §§ 2001.051–2001.178; 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021–53.023.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Kempf has knowingly and voluntarily waived all procedural rights to which he may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Kempf has committed an act for which the department may deny a license under TEX. INS. CODE §§ 4001.105 and 4005.101(b)(8).
5. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the factors in TEX. OCC. CODE §§ 53.022–53.023 outweigh the serious nature of Kempf's criminal convictions.
6. The commissioner is an insurance regulatory official authorized to regulate Kempf's activities in the business of insurance. The commissioner has primary jurisdiction to grant Kempf written consent to engage or participate in the business of insurance, pursuant to 18 U.S.C. § 1033.

Order

It is ordered that an adjuster all lines license is granted to Quaint Kempf. It is further ordered that the adjuster all lines license is suspended for two years, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Kempf, those additional licenses or authorizations will be suspended until the probation period imposed by this order has

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ended. The suspension will be probated, and the same terms and conditions stated in this order will apply.

Beginning from the date of this order and continuing through the probation period, Kempf must provide written notice of his criminal record to any adjusting firm, insurance company, agency, employer, sponsor, or other entity on behalf of which he performs the acts of an adjuster, or if later licensed by TDI, as an insurance agent. Kempf must provide the department with a copy of the notification within 30 days of the appointment, employment, or sponsorship by emailing it to the Texas Department of Insurance at EnforcementReports@tdi.texas.gov.

Beginning from the date of this order and continuing through the probation period, Kempf must file a written report, on or before the 15th day of each month on a quarterly basis for the months of June, September, and December, and March with the Texas Department of Insurance by emailing it to EnforcementReports@tdi.texas.gov. The reports must include the following information:

- a. Kempf's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Kempf's employer, and if Kempf is self-employed, a statement that he is self-employed and the name, mailing address, and telephone number of his business;
- c. the name and address of any insurer, managing general agent, or adjusting firm which has employed or contracted with Kempf as an adjuster;
- d. the name and address of any insurer, managing general agent, or adjusting firm which has terminated Kempf as an adjuster; and
- e. a copy of any and all contracts Kempf has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Kempf must notify the department immediately of the following by emailing EnforcementReports@tdi.texas.gov:

- a. any charges or indictments filed against him for a misdemeanor or felony during the period he is required to file reports, excluding traffic offenses and Class C misdemeanors;

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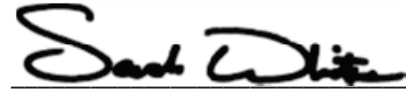
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Recommended and reviewed by:



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